

REMARKS

In response to the Final Office Action dated February 18, 2010, and in response to the Request for Continued Examination file herewith, claims 16-32 have been canceled and new claims 33-48 have been added. Claims 33-48 are pending in the application.

On page 2 of the Final Office Action, claims 16-21 and 24-32 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen.

On page 10 of the Final Office Action, claims 22-23 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen, and in further view of Lawler and Matthews.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution have canceled claims 16-32 have been canceled and added new claims 33-48.

Independent claim 33 sets forth receiving, from a headend, a transport stream comprising program listings in an electronic program guide merged with promotional programming for display in a video window at a subscriber, the promotional programming including audio, video and promotional metadata, storing the program listing along with the promotional programming including the promotional metadata at the subscriber, presenting the promotional programming in a display window, detecting a selection of the promotional programming by the subscriber, parsing the stored promotional metadata of the selected promotional programming, determining, from the parsing of the promotional metadata of the promotional programming, electronic program guide features and presentation options corresponding to the selected promotional programming, presenting the electronic program guide features according to the presentation options corresponding to the selected promotional programming, selecting a feature from the presented electronic program guide feature corresponding to the selected promotional

programming for execution and executing the selected feature corresponding to the selected promotional programming. Independent claim 44 sets forth similar elements.

Fries discloses a system that injects page images into a broadcast from a cable system. The page images include metadata. The metadata only describes the structure and contents of the page image. Further, each page image includes an active location. Thus, when a page image is displayed and a user selects an active location within a page, the system reads the metadata associated with the page image and takes the action associated with the active location. For example, a user enters the Information Service via the service's specific channel and the default page of the Information Service is displayed. The user may use a remote to navigate to the television listing icon and select it to display a television listing.

However, Fries fails to suggest an EPG accessible from within promotional programming. Rather, the listing is accessible from a page image of an Information Service page.

Fries further fails to disclose, teach or suggest receiving a transport stream that includes program listings merged with promotional programming that includes audio, video and promotional metadata. Rather, Fries only discloses that listings may be accessed from a static home page, i.e., the home pages does not display promotional programming that includes audio, video and promotional metadata, or even video.

Fries also fails to disclose, teach or suggest storing the program listing along with the promotional programming including the promotional metadata at the subscriber. Rather, Fries discloses that page data of the Information Services is stored in a head-end server.

Fries also fails to disclose, teach or suggest presenting the promotional programming that includes audio, video and promotional metadata in a display window. Fries only discloses that the default page of the Information Service is displayed.

Fries still further fails to disclose, teach or suggest detecting a selection of the promotional programming by the subscriber. Fries does not display promotional programming. Nevertheless, Fries only discloses selecting links in the default page of the Information Service.

In addition, Fries fails to disclose, teach or suggest parsing the stored promotional metadata of the selected promotional programming and determining, from the parsing of the promotional metadata of the promotional programming, electronic program guide features and presentation options corresponding to the selected promotional programming. Again, Fries does not disclose presenting the promotional programming that includes audio, video and promotional metadata in a display window. Fries also does not mention determining electronic program guide features and presentation options corresponding to the selected promotional programming. Fries discloses that television listings may be selected from the default page of the Information Services page. However, Fries does not disclose determining presentations options for promotional programming. As such, Fries also fails to disclose, teach or suggest presenting the electronic program guide features according to the presentation options corresponding to the selected promotional programming.

Fries also fails to disclose, teach or suggest selecting a feature from the presented electronic program guide feature corresponding to the selected promotional programming for execution and executing the selected feature corresponding to the selected promotional programming. Fries only discloses selecting an icon representing a link in a default page of an Information Services page.

Thus, Fries fails to disclose, teach or suggest the invention as defined in independent claims 33 and 44.

Tomsen fails to remedy the deficiencies of Fries. Tomsen merely discloses a system that allows a viewer can initiate a transaction associated with a television commercial that user is watching.

However, Tomsen fails to suggest an EPG accessible from within promotional programming. Tomsen does not mention a program guide, and specifically does not mention an electronic programming guide that is accessible from within promotional programming.

Tomsen further fails to disclose, teach or suggest receiving a transport stream that includes program listings merged with promotional programming that includes audio, video and promotional metadata. Rather, Tomsen only discloses a commercial may be displayed and the user may initiate a transaction related to the commercial.

Tomsen also fails to disclose, teach or suggest storing the program listing along with the promotional programming including the promotional metadata at the subscriber. Rather, Tomsen only discloses that a commercial and related product supplemental information is stored.

Tomsen still further fails to disclose, teach or suggest detecting a selection of the promotional programming by the subscriber. Tomsen only discloses that a button on a remote is selected thereby causing a transaction prompt to be displayed.

In addition, Tomsen fails to disclose, teach or suggest parsing the stored promotional metadata of the selected promotional programming and determining, from the parsing of the promotional metadata of the promotional programming, electronic program guide features and presentation options corresponding to the selected promotional programming. Tomsen does not mention determining, from the parsing of the promotional metadata of the promotional

programming, electronic program guide features and presentation options corresponding to the selected promotional programming. Tomsen does not contemplate electronic program guide features and presentation options corresponding to the selected promotional programming. As such, Tomsen also fails to disclose, teach or suggest presenting the electronic program guide features according to the presentation options corresponding to the selected promotional programming,

Tomsen also fails to disclose, teach or suggest selecting a feature from the presented electronic program guide feature corresponding to the selected promotional programming for execution and executing the selected feature corresponding to the selected promotional programming. Tomsen only discloses selecting a button a remote control device to initiate a transaction related to the commercial being shown. Tomsen fails to mention features of an electronic programming guide. Further, Tomsen fails to mention a electronic program guide feature corresponding to selected promotional programming or executing the selected feature of the electronic program guide corresponding to the selected promotional programming.

Thus, Fries and Tomsen, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 33 and 44.

Lawler fails to remedy the deficiencies of Fries and Tomsen. Lawler is merely cited as disclosing the displaying of data items on a television display, the data items including a show date, show time and tune action. Lawler is further cited as disclosing determining whether the promotion is for an event that is presently playing using the data items, the data items including a show date and show time. Still further, Lawler is cited as disclosing the setting a reminder, when a program reminder is selected and the event is not presently playing. Lawler is further cited as disclosing tuning an event, when the event is presently playing.

However, Lawler does not suggest an EPG that is accessible from within promotional programming. Lawler further fails to suggest the elements discussed above.

Thus, Fries, Tomsen and Lawler, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 33 and 44.

Matthews fails to remedy the deficiencies of Fries, Tomsen and Lawler. Matthews is merely cited as disclosing setting a reminder and automatically tuning to the channel after the reminder has been displayed.

However, Matthews does not suggest an EPG that is accessible from within promotional programming. Matthews further fails to suggest the elements discussed above.

Thus, Fries, Tomsen, Lawler and Matthews, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 33 and 44.

Dependent claims 34-43 and 45-48 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 33 and 44, respectively. Further dependent claims 34-43 and 45-48 recite additional novel elements and limitations. Applicant reserves the right to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 34-43 and 45-48 are patentable over the cited references.

On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to

charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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